



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF NEXTGEN
TELEPHONE, INC. FOR AUTHORITY TO PROVIDE
FACILITIES-BASED AND RESOLD COMPETITIVE)
LOCAL EXCHANGE TELECOMMUNICATIONS)
SERVICES THROUGHOUT THE STATE OF NEW
JERSEY)

ORDER

DOCKET NO. TE06020071

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated June 22, 2006, NextGen Telephone, Inc. ("Petitioner" or "NextGen") filed an amended Petition with the Board of Public Utilities ("Board") requesting authority to provide facilities-based and resold competitive local exchange telecommunications services throughout the State of New Jersey.

NextGen was incorporated under the laws of the State of New York on February 24, 2000. Petitioner's principal offices are located at 28 North County Road, Mount Sinai, New York 11766. Petitioner submitted copies of its Articles of Incorporation, New York Certificate of Good Standing and its New Jersey Certificate of Authority to operate as a Foreign Corporation.

Petitioner is currently authorized to provide resold local exchange telecommunications services in the state of New York. Petitioner states that it has not been denied authority to provide telecommunications services its authority has not been revoked in any jurisdiction and it has not been subject of any civil or criminal proceedings. Petitioner is not currently providing telecommunications services in the State of New Jersey. Petitioner states that it does not, at this time, seek authority to provide local exchange telecommunications services in the service areas, if any, of small or rural incumbent local exchange carriers (ILECs) or competitive local exchange carrier ("CLECs") in New Jersey that qualify for the rural exemption outlined in Section 251 (f)(1) of the Federal Act. Petitioner also states that in the future, it will seek authority to operate in such service areas.

Petitioner seeks authority to provide facilities-based and resold competitive local exchange telecommunications services that will be provided over Verizon-New Jersey and other common carriers' networks operating in the State of New Jersey. Petitioner is currently negotiating with Verizon to enter into an Interconnection Agreement for the State of New Jersey. Petitioner states

that it intends to subscribe to and resell all forms of business telephone service in the State of New Jersey, including but not limited to: local dial tone services, message rate telephone services, private lines, tie lines, access service, local switched service, business measured single line services, centrex services, remote call forwarding services, access to telecommunications relay services and universal lifeline service. Petitioner also plans to offer access to operator services, directory assistance, directory listings and emergency services through the facilities of communications common carriers and other entities that the Petitioner will contract with. Petitioner intends to initially serve the business class in the State of New Jersey.

Petitioner asserts that the local exchange services that it proposes to offer will satisfy the minimum standards established by the Board. Petitioner also states that it agrees to meet the minimum basic local service standards, including quality of service and billing standards that the Board requires of the ILECs with which Petitioner seeks to compete. Petitioner states that it intends to provide competitive local exchange services to New Jersey consumers in New Jersey's ILEC territories utilizing resold unbundled network elements that it may determine are necessary or economically prudent in furtherance of its telecommunications business. Petitioner may supplement these services with other facilities and services provided by ILECs, CLECs and/or interexchange carriers. Petitioner also states that where economically prudent, its services will be available on a full-time basis 24 hours a day, seven days a week. In addition to these services, provision of intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings and emergency services 911 and E911 will be furnished on Petitioner's behalf, by the incumbent local exchange carriers. Petitioner's toll free phone number for customer service is 1-877-781-6398.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8, and N.J.A.C. 14:1-4.3 which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located at 28 North County Road, Mount Sinai, New York 11766. Petitioner states, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that expedited approval of its Petition will provide New Jersey customers with an additional, alternative service provider at competitive rates including an enhanced range of telecommunications services and an increase in consumer choices. Petitioner states that the public convenience and necessity would be well-served by the granting of this petition.

Petitioner states that Exhibit 4 of the Petition indicates that it is managed by individuals with substantial technical, financial and managerial ability to provide the services for which it seeks authority.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)]

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to "provide diversity in the supply of telecommunications services" and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed NextGen's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Ratepayer Advocate, respectively.

The Board HEREBY ORDERS that:

- 1) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 2) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

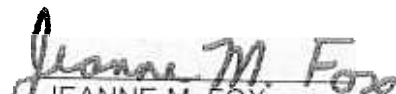
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.


Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and

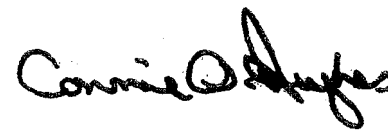
records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 8/18/06


BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

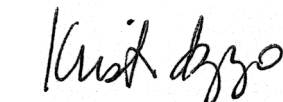

FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

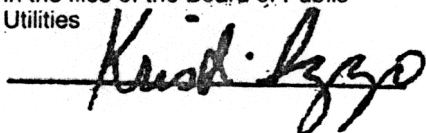

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING
NEXTGEN TELEPHONE, INC. TO PROVIDE FACILITIES-BASED AND
RESOLD COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS
SERVICES THROUGHOUT THE STATE OF NEW JERSEY
DOCKET NO. TE06020071

SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Raymond Carpenter, President NextGen Telephone, Inc. 28 North County Road Mount Sinai, New York 11766	4	Board's Staff: Walter Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: David O Klein, Esq. Klein, Zelman, Rothermel & Dichter, LLP. 485 Madison Avenue New York, New York 1002	5	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayer Advocate: Seema M. Singh, Esq. Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	6	Deputy Attorney General: Arlene Pasko Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box 45029 Newark, New Jersey 07102